IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT APPEAL NO : 1112 of 1998

(Writ Appeal under Clause 15 of the Letters Patent against the Order made in W.P.No.12678 of 1997 dated 6.2.98 on the file of the High Court.)

Between:

1. The Joint Collector,

Visakhapatnam

2. District Supply Officer (Rural)

Visakhapatnam

..... APPELLANTs

AND

1. M/sPalukuru Mallipuvvu & Sons

Wholesale Kerosene Dealer,

Chodavaram, Visakhapatnam District.

.....RESPONDENT

Counsel for the Appellants: GP FOR CIVIL SUPPLIES

Counsel for the Respondent: MR.P.KAMLAKAR

The Court made the following Order : (Per Sri BRSR.J)

The Joint Collector and the District Supply Officer (Rural), Visakhapatnam preferred this appeal against the order
dated 6.2.1998 made in W.P.No.12678 of 1997 by a learned Single Judge of this Court.

The respondent-writ petitioner is the holder of 'B-Form' licence granted to it under the provisions of the Andhra Pradesh Petroleum Products (Licensing and Regulation of Supplies) Order, 1980 (for short 'the Order'). The District Supply Officer, Visakhapatnam vide proceedings dated 11.10.1996 required the respondent-writ petitioner to show cause as to why appropriate action should not be taken against it for cancellation of the licence granted to the firm. The following two charges were framed against the respondent-writ petitioner.

> "Charge No.1: That the wholesale kerosene oil dealer lifted 11 kls and 21 kls of oil during May, 1996 and June, 1996 towards the additional quota and shown in the accounts that it was distributed to 13 fair price shops in Chodavaram village. During inspection, it was found that on 31.5.1996, 20.9 kls and on 30.6.1996 25.7 kls additional quota was distributed. During enquiry, it was revealed that the said quota was not distributed to the consumers and tus the dealer has violated Clause 12(1) of A.P.Petroleum Products (Licensing and Regulation of

Supplies) Order, 1980.

Charge No.2: The dealer has connived with the F.P. Shop dealers for wrongful gain and wrote false accounts stating that the said additional stocks were distributed to the F.P. shop dealers on 31.5.1996 and 30.6.1996 and thus contravened Clause 4 of the A.P. Schedule Commodities (Regulation and Distribution by Card System) Order, 1973."

The respondent-writ petitioner filed a detailed explanation to the show cause notice inter alia denying the allegations levelled against it. The District Supply Officer vide order
dated 27.12.1996, upon appreciation of the material available on record found that the writ petitioner failed to satisfactorily establish as to how much quantity of kerosene was supplied towards regular allotment and additional allotment. The authority disbelieved the version of the writ petitioner that the licensee distributed the quantity of 22,934 liters of kerosene oil on one particular date, that too after he had drawn the kerosene from Indian Oil Corporation Limited, Visakhapatnam on 31.5.1996 at 16.09 hours. It was also found that the petitioner had drawn
12 kls of kerosene from the Indian Oil Corporation Limited on 30.6.1996 and 14 kls from M/s Sankara Kirana Stores, Kasimkota and thus the total quantity available with the licensee was 26,833 litres of kerosene. Out of the same, the dealer has shown that 25,770 litres of kerosene, inclusive of regular allotment was distributed on that particular date (31.5.1996) to 13 fair price shop dealers. It is under those circumstances, the District Supply Officer came to the conclusion that the licensee, who is a wholesale dealer is also involved in the diversion of additional allotment of kerosene oil for the months of May and June, 1996.

With regard to the second charge also, the licensing authority found that the licensee had contravened the provisions of the Control Orders by not maintaining the true and correct accounts of all purchases and sales of the petroleum products.

On appeal, the Joint Collector vide order dated 10.5.1997 confirmed the orders passed by the District Supply Officer. The petitioner filed the writ petition challenging the orders passed by the authorities.

The learned Single Judge took the view that the licensee, being the wholesale dealer was only concerned with the distribution of stocks to the fair price

shop dealers and whether those fair price shop dealers in turn distributed the kerosene to the card-holders is not the concern of the wholesale dealer. The learned Judge accordingly found that the entries revealed the actual distribution and the accounts in the registers maintained by the fair price shop dealers would also show the distribution of the kerosene. The learned Judge held that the wholesale dealer cannot be held responsible to the actual non supply of kerosene to the card holders.

That so far as the order passed by the Joint collector is concerned, the learned Judge found that the appellate authority failed to take into consideration the main contentions advanced by the counsel for the petitioner. The learned Judge also took the view that the dealer had made a request for supply of copies of "several documents" and they were not furnished by the authorities without any justification. It was also found that the writ petitioner has been virtually prejudiced on account of non-furnishing of the documents sought for by it.

In our considered opinion, the learned Judge having found that on account of non-supply of the documents forming the basis for the action being taken by the authorities against the petitioner caused prejudice to it, ought not to have entered into the merits and recorded any finding on merits absolving the writ petitioner of the charges framed against it. The only course that was available to the learned Judge was to quash the order and remit the matter for fresh consideration by the licensing authority in accordance with law after furnishing the documents sought for by the writ petitioner.

In the circumstances, we modify the order passed by the learned Single Judge and accordingly quash the impugned orders passed by the Joint Collector dated 10.5.1997 confirming the order of the District Supply Officer. We direct the District Supply Officer to furnish copies of the documents sought for by the petitioner and put the writ petitioner on further notice and make an enquiry in accordance with law uninfluenced by the observations made by the learned Single Judge.

However, if the appellants have not renewed the licence of the writ petitioner, no further proceedings as such would be required to be taken inasmuch as no further cause would survive for any further enquiry.

The writ appeal is accordingly disposed of. There shall be no order as to costs.

(B.SUDERSHAN REDDY,J)

DT.19..07..2004

(K.C.BHANU,J)

msv.

DEPUTY REGISTRAR

// true copy//

SECTION OFFICER

To

1. The Joint Collector,

Visakhapatnam

2. District Supply Officer (Rural)

Visakhapatnam

3. 22 ccs to G.P. for Civil Supplies,

High Court of A.P. (OUT)